

The subject relating to under-trial prisoners is proposed to be discussed at a conference this month and orders will issue thereafter. The rule requiring the production of encumbrance certificates is not in force now. In regard to the statement that the *nirak* rate is defective, the Government have already asked the Land Revenue Commissioner to see that the rates are prepared correctly. The High Court have recommended to the Government that copies of the Settlement Register, if applied for by the parties, may be granted from the Court itself to which the application is made. This will be arranged accordingly. In regard to the suggestion that a small fee may be levied for a certificate in respect of vakils' fee and for applications for striking cases off the file, I am afraid that those cannot be done under the existing law.

As regards the other points referred to, the difficulties are due to the defective application of the rules. These will be brought to the notice of the High Court for their early attention.

32. Establishment of Village Panchayat Courts throughout the State.

Mr. Utuppu Chacko (Member, Muvattupuzha taluk) stated that in olden times the custom for the people of Travancore was to manage their local affairs through representative bodies. This system, he said, continued to be in vogue, until the recent policy of the Government absorbed all the administrative activities of those bodies in the central Government. But now the Government were slowly realising the advantages of local administration and the Panchayat was the local body to which they had entrusted the administration of civil justice in petty local suits. The benefit of such institutions, however, was enjoyed only by citizens of a few important towns, where even without them the people could resort to other civil courts. But the people of rural areas were living so far away from civil courts that their grievances could not be redressed, since they could not easily resort to distant courts. The Member, therefore, urged the necessity of adopting a scheme whereby Panchayat Courts could, as in British India and Cochin, be extended to all the villages of Travancore.

President's reply.—Government have no objection to the principle, but the increase in the number of Village Panchayat Courts can be made only gradually, after a full investigation of local needs.

33. Administration of civil and criminal justice.

Mr. C. S. Narayana Aiyar (Member, Municipal Council, Trivandrum) prefaced his representation on the administration of justice by saying that he regretted that the Dewan's Address did not deal with the administration of justice at sufficient length though that was one of the most important functions of Government. He said that corruption had become rampant in the Judicial Department and that the time had arrived for the High Court to set their face against it. He was of opinion that the recent reforms in the administration of criminal justice had brought about a state of declining efficiency as a result of the appointments of judicial officers being made on a communal basis. Again, inexperienced men ignorant of law and procedure were being appointed as Magistrates and they committed a large number of judicial blunders. He suggested that Magistrates should be appointed from among the practising members of the Bar as far as possible, and that the separation of magisterial and revenue functions should be effected as early as possible. Another obstacle in the way of the impartial administration of criminal justice was, the Member alleged, the dominating influence of the Police who overawed the Magistrates and who thought that their advancement depended on the good will of the District Superintendent of Police or even an Inspector. The practice of Head Constables conducting the prosecution of cases which they had to investigate was another evil which caused great hardship and suffering to under-trial prisoners. The Member also complained that, in their anxiety to keep down the file and send satisfactory returns, Magistrates resorted to the illegal practice of refusing to admit complaints presented to them and he instanced the First Class Magistrate's Court, Trivandrum, as one to the file of which the only ticket of admission was a police charge-sheet. He also complained that in that court the depositions of witnesses were not generally read

out before they were signed by the witnesses, and said that, if courts at the capital could afford to do such things, the state of mofussil courts could very well be imagined.

In regard to civil courts, the Member observed that they were no better than their sister institutions described above. He emphasised the need for insisting upon issues being framed soon after the receipt of written statements, and contended that the rule that 40 cases should be disposed of by a Munsiff every month, though meant to expedite work, had the reverse effect in practice. To remedy this the Member suggested the issue of a circular making it incumbent on the part of the presiding officers to attend court precisely at 11 A. M. and to enter in the order sheet kept by them the hour and minute of the commencement and termination, respectively, of every proceedings in court during the day. He alleged that the annual and quarterly returns were no correct index of the actual arrears in a court, that the High Court seldom checked those returns with the original registers, and that it was therefore necessary to depute a special officer for that purpose. The Member complained that large amounts of money by way of process fees were illegally allowed to lapse to the Government and urged the necessity for a list of unexpended process fees being published in every court once a quarter. He regretted that the hope expressed by the Government last year that the errors in the administration of justice would be largely rectified when the new *Civil Courts' Guide* came into operation had not been fulfilled. The *Guide*, said the Member, was redundant, deficient, inconsistent and erroneous and had made litigation irksome and expensive. It had also opened the door to new methods of corruption, especially in the matter of the attestation of affidavits by small ministerial officers. The Member suggested that the power to make such attestation might be granted to more persons, while the production of affidavits might be dispensed with in the case of petitions to be verified under the directions of the Civil Procedure Code. He also requested that a circular be issued cancelling the present practice of allowing interest on the principal only—and even that only at 6 per cent.—from the date of plaint, provided that interest had not accrued to a moiety of the principal on the date of the plaint. The Member pointed out that it was desirable that the cost, if any, of correcting a decree should be added to the costs of the suit, that the vakils' fee in execution cases should be raised to 2½ per cent. as in British India, and that in small cause suits vakils' fee should be allowed as a matter of course. The Member also suggested that the delay in regard to the disposal of execution cases might be avoided to a large extent by allotting a special day every week for hearing contested cases in execution. The Member further urged the necessity for putting a stop to the practice of appointing unqualified men as law agents, since there was no paucity of qualified legal practitioners now. In regard to the Village Panchayat Courts, the Member's suggestion was that the judges should be appointed by a system of election.

The last point dealt with by the Member under the *Civil Courts' Guide* was the introduction of forms under Appendices 2 and 3. He said that those forms had not yet been applied to any of the lower courts, and that the old forms were still being used. He had in his hands copies of those forms.

President.—Will you please give me those summons forms?

Member.—Yes, Sir, I have them here.

The Member then handed over the forms to the President.

President's reply.—As regards your remarks about the local Division First Class Magistrate, a reference will be made to the District Magistrate and a report will be called for.

The question of interest is governed by section 204 of the Civil Procedure Code under which discretion is vested in the presiding officer of the Court. Your representation is therefore more a matter for the legislature.

As to how the summonses came to be written out in the forms which you have now put into my hands, the court concerned will be addressed to make an enquiry and report.

As regards the difficulties consequent on the present rule relating to affidavits, the point has been already answered by me with reference to a prior representation.

The other points mentioned by you will be considered.

34. Establishment of a Munsiff's Court at Nedumangad.

Mr. M. Subrahmanya Pillai (Member, Nedumangad taluk) stated that, as compared with other taluks in the State, Nedumangad was subordinate only to a few, in point of area, population and revenue. But the taluk suffered much in the matter of administration of civil justice. The necessity of establishing a Munsiff's court in the taluk had formed the subject of repeated representations ever since the institution of the Assembly.

The three Munsiffs' Courts exercising jurisdiction in the taluk, *viz.*, Neyyattinkara, Trivandrum and Attingal, were outside the Nedumangad taluk and the hardships suffered by the litigant public in seeking help from them in consequence were obviously great. The Member stated that the town of Nedumangad was a most convenient place for the establishment of a Munsiff's court. There was no necessity of a third Munsiff's court at Neyyattinkara because the people there neither desired, nor asked for it.

The Member concluded his representation by urging the Government to establish a Munsiff's Court in Nedumangad.

President's reply.—Government addressed the High Court on this subject. The High Court scrutinised the civil statistics and also wrote to the Tahsildars of Neyyattinkara, Chirayinkil and Nedumangad with a view to ascertain whether there was enough work for a separate Munsiff at Nedumangad, or at least for a Munsiff-Magistrate. The High Court have reported that the civil work contributed by the *pakuthies* which could properly be brought within the territorial jurisdiction of the proposed court and the criminal work in the whole of the Nedumangad taluk would not keep a Munsiff-Magistrate's court fully engaged at Nedumangad and that opinion has been accepted by the Government. If, in future, the work is found to increase, Government will reconsider the question.

Member.—The *pakuthies* of Aryanad and Vempayam at least may be transferred from the jurisdiction of the Neyyattinkara court to the court at Trivandrum.

President's reply.—Government will consider that suggestion.

35. Extension of the territorial jurisdiction of the Changanachery Munsiff's Court so as to include at least Putuppalli and the northern portion of the Kalluppara Pakuthi.

Mr. Paramesvara Kurup Eravi Kurup (Member, Changanachery taluk) urged the need for increasing the territorial jurisdiction of the local Munsiff's Court lest the decrease in the number of cases should eventually lead to its abolition. He pointed out that the transfer of jurisdiction over the *pakuthies* of Vazhur, Vellavur, Putuppalli and Kanjirapalli to the Kottayam and Kanjirapalli Munsiff's courts agreeably to the wishes of the people caused the fall in the number of cases in the Changanachery Munsiff's court and that the level might be restored by the inclusion of the *pakuthies* of Putuppalli and Kalluppara within its jurisdiction. As, however, the Municipal members of Kottayam and Tiruvalla expressed their disagreement to the proposed transfer, he did not press it. If, in the opinion of the Government, there was not sufficient work for the court to justify its existence, the local Munsiff might be invested with magisterial powers so as to give increased work to the court.

President's reply.—The question has been considered many a time. The opinion of the High Court is that, if the territorial jurisdiction of the Changanachery Munsiff's court should be extended, it was necessary that either of the *pakuthies* of Putuppalli or Kalluppara should be split up and Government consider that no change could be made until the *pakuthies* were split up at the next settlement. The matter will, however, be re-examined. The question whether Changanachery should have a Stationary Magistrate or a First Class Magistrate is under the consideration of the Government.